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*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety*  
*Fire Safety Commission*

*Automatic Sprinkler Appeals Board*

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MAURICE M. PILETTE  
CHAIRMAN

PAUL DONGA  
VICE CHAIR

**Docket # 2005-51**  
**425R Broadway**  
**Saugus, Massachusetts**

**AUTOMATIC SPRINKLER APPEALS BOARD**  
**DECISION AND ORDER**

**A) Statutory and Regulatory Framework**

This is an administrative appeal held in accordance with Massachusetts General Laws Chapter 30A; Chapter 148, section 26G1/2 and Chapter 6, section 201, relative to a determination of the Saugus Fire Department, requiring the installation of an adequate system of automatic sprinklers in a building owned and/or operated by Rollerworld (hereinafter referred to as the "Appellant"). The building, which is the subject of the order, is located at 425R Broadway, Saugus, Massachusetts.

**B) Procedural History**

By written notice dated May 18, 2005, the Saugus Fire Department issued an Order of Notice to the Appellant informing it of the provisions of a new law, M.G.L c. 148, s.26G1/2, which requires the installation of an adequate system of automatic sprinklers in certain buildings or structures. The building subject to the order is located at 425R Broadway, Saugus, MA. The Appellant filed an appeal of said order on June 9, 2005. The Board held a hearing relative to this appeal on December 14, 2005, at the Department of Fire Services, Stow, Massachusetts.

The Appellant was represented by Mr. Jerry Breen, Trustee of Cortina Realty Trust (owner of Rollerworld), James Barth, consultant from FirePro, and Attorney Alfred P. Farese, Jr. The Saugus Fire Department was represented by Chief James L. Blanchard.

Present for the Board were: Maurice M. Pilette, Chairperson, Paul Donga, P.E., Vice Chair, State Fire Marshal Stephen D. Coan, Sandy Macleod, Chief Thomas Coulombe, and Peter E. Gibbons. Peter A. Senopoulos, Esquire, was the Attorney for the Board.

**C) Issue(s) to be Decided**

Whether the Board should affirm, reverse or modify the enforcement action of the Saugus Fire Department relative to the subject building in accordance with the provisions of M.G.L. c.148, § 26G1/2?

**D) Evidence Received**

1. Application for Appeal
2. Memorandum in Support of Application for Appeal
3. Order of Saugus Fire Department
4. Notice of Hearing to Appellant
5. Notice of Hearing to Saugus Fire Department
6. Documents describing building and activities
7. Floor Plan
8. Floor Plan #2
9. Certificate of Inspection (issued on September 15, 2005)
- 10A. Interior Photographs (1-5)
- 10B. Exterior Photographs (1-5)
11. Entertainment License

**E) Subsidiary Findings of Fact**

- 1) By Notice dated May 18, 2005, the Saugus Fire Department issued an Order of Notice to the Appellant requiring the installation of an adequate system of automatic sprinklers in a building located at 425R Broadway, Saugus, Ma. in accordance with the provisions of M.G.L. c. 148, s.26G1/2. The Appellant filed an appeal of said order on June 9, 2005. After appropriate notice, the Board held a hearing relative to this appeal on December 14, 2005, at the Department of Fire Services, Stow, Massachusetts.
- 2) According to the representative for the Appellant, the building is a 340 x 120 sq. ft. (40,800 sq. ft) steel and concrete structure, of which, the Appellant's business, a roller skating facility, occupies approximately 240 x. 120 sq ft. (28,800 sq. ft). The front of the building is covered with a stucco-type material and there are no windows in the facility. The interior of the roller-skating rink has an acoustic tile ceiling that is approximately 12' high. The main roller-skating floors are hardwood with a concrete underlay and the floor between the two skating surfaces and the snack bar area is carpeted. The rink floor area encompasses an area of approximately 180' x 80'.
- 3) According to the Certificate of Inspection issued by the Saugus Building Department, the establishment has a legal capacity of 1,000 persons and is used as a "skating rink and dining area" (the snack bar). The certificate does not indicate the use group classification of this building.
- 4) This establishment has a common victualer's license and an entertainment license for dancing, disc jockey and a live band.

- 5) Testimony indicates that this facility is used for a variety of different activities. Examples of such events include: roller skating, roller skating instruction, dance instruction, roller dance competitions, adult ballroom dancing events under 21 dances and dance party events that feature music and entertainment by live band or disc jockey. Copies of internet web sites were provided which indicate that events are routinely scheduled that feature live entertainment by “rock and roll”, “rap” musicians, and ball room type music for dancing purposes. The appellant testified that the facility is used for such dancing events at least twice a week, year round. The Appellant testified that tickets are often sold to the public for such events at the door. There is no pre-determined attendance count.
- 6) For roller skating events, tables and chairs are only provided in the eating areas. For ballroom dancing and other dances and entertainment events, tables and chairs are set-up along and inside the walls of the rink area.
- 7) Although the capacity of the licensed establishment, as listed on the certificate of inspection, is “1,000” persons, the Appellant testified that for skating and ballroom dancing events, the general attendance is usually not more than approximately 250 persons and that such events do not extend late into the night. It is noted, however, that the entertainment license issued by the town allows the business to operate between the hours of 6:00am and 2:00 am.
- 8) The Appellant indicated that the establishment has a small snack bar with an electric hot dog and pizza machine.
- 9) The fire chief testified that it is his opinion that this establishment is clearly used as a “dancehall” with a capacity of 100 persons or more and, as such, is within the scope of the enhanced sprinkler requirements of M.G.L. c. 148, s.26G1/2.
- 10) The Appellant does not contest the conclusion that the establishment is a “dance hall”, but argues that this establishment is safe in that it does not present a particular fire safety threat and it is not used in a manner that creates an overcrowding or otherwise unsafe situation. Additionally, Appellant contends that the installation of a sprinkler system would be very costly. Mr. James Barth, a consultant for FirePro Incorporated, testified on behalf of the Appellant. He indicated that a complete sprinkler system for the facility would cost in excess of \$250,000.00. The appellant did not provide plans or suggestions for any alternative forms of fire protection or any modified sprinkler protection designs.
- 11) The fire chief indicated that the establishment appears to have the required means of egress, with panic hardware on all doors and that there are strobes, heat detectors, pull stations, and a central alarm notification system. However, the Chief indicated that he is concerned if a significant fire occurs since the facility has no windows. He also indicated that impeded egress may occur in the area of the dance floor/rink since there is reduced exit capacity created by the existence of a 3’ high concrete wall that surrounds the rink area.

**F) Ultimate Findings of Fact and Conclusions of Law**

- 1) The provisions of the 2<sup>nd</sup> paragraph of M.G.L. c. 148, s. 26G1/2, in pertinent part states: “ every building or structure, or portions thereof, of public assembly with a capacity of **100 persons or more**, that is designed or used for occupancy as a night club, **dance hall**, discotheque, bar, or similar entertainment purposes...(a) which is existing or (b) for which an approved building permit was issued before December 1, 2004, shall be protected throughout with an adequate system of automatic sprinklers in accordance with the state building code” (bold emphasis added). The law was effective as of November 15, 2004.
- 2) The statutory timeline for said sprinkler installation in accordance with the provisions of section 11, St. 2004, c.304, requires the submission of plans and specifications for the installation of sprinklers within 18 months of the effective date of the act (by May 15, 2006) and complete installation within 3 years of the effective date of the act (by November 15, 2007).
- 3) The subject building is considered a public assembly with a capacity of 100 persons or more. Clearly, this finding is not at issue as the certificate of inspection lists the occupancy capacity at 1,000 persons.
- 4) The building at issue clearly has the characteristics of and is currently being used, on a routine and regular basis, as a “dance hall” within the scope of M.G.L. c. 148, s.26G1/2. The Appellant neither contested this finding at the hearing nor provided evidence to support a different conclusion. Examples of the characteristics of this building that exist to support this finding are as follows:
  - a) The existence of an entertainment license for dancing, live bands, and D.J. with pre-recorded music;
  - b) The existence of accessories such as disco balls and the use of raised platform for some events;
  - d) The potential and actual existence of low lighting levels, particularly during dance parties and musical entertainment events ;
  - e) Entertainment by a live band or recorded music generating above-normal sound levels;
  - f) The legal ability for late operating hours (license indicates the facility can remain open until 2 a.m.);
  - g) A specific area designated for dancing;
  - h) The routine and regular use of the establishment for the purpose of ballroom dancing, and a variety of dance party and musical entertainment events that are widely advertised and open to the public through ticket sales.

**G) Decision and Order**

After a careful review of all the evidence presented and based upon the aforementioned findings and reasoning, the Board hereby determines that the building located at 425R Broadway, Saugus, MA. is a public assembly with a legal capacity of 100 or more persons and is currently used or designed as a "dancehall". Accordingly, the Order of the Saugus Fire Department to install sprinkler protection in the subject building in accordance with the provisions of M.G.L. c.148, s.26G1/2 is hereby affirmed. An adequate sprinkler system shall be installed in accordance with statutory timeline as follows:

1. The submission of plans and specifications for the installation of sprinklers within 18 months of the effective date of the act (by May 15, 2006); and
2. Complete installation within 3 years of the effective date of the act (by November 15, 2007).

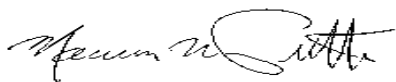
**H) Vote of the Board**

Maurice Pilette, P.E. (Chairperson)	In favor
Paul Donga, P.E. (Vice Chair)	In favor
Stephen D. Coan, State Fire Marshal	In favor
Chief Thomas Coulombe	In favor
Alexander Macleod	In favor
Peter E. Gibbons	In favor

**I) Right of Appeal**

You are hereby advised that you have the right, pursuant to section 14 of chapter 30A of the General Laws, to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order.

SO ORDERED,



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Maurice Pilette, P.E.. Chairman

Dated: January 26, 2006

**A COPY OF THIS DECISION AND ORDER WAS FORWARDED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO:** Mr. Jerry Breen, c/o Alfred P. Farese, Jr., Esq., 366R Broadway, Everett, MA 01940 and by **1<sup>st</sup> CLASS MAIL, POSTAGE PRE-PAID, TO:** Chief James L. Blanchard, Saugus Fire Department, 27 Hamilton Street, Saugus, MA 01906.